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APOLINAR SANTOS-DE ASIS
PERFECTO TOTO-CRUZ
VICENTE ALVARDO-VICTORIA
FRANCISCO DIEGO-BENABE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
(Honorable ANTHONY J. BATTAGLIA)

UNITED STATES OF AMERICA, Plaintiff, v. RICARDO IVAN PALOS-MARQUEZ, Defendant.	CRIMINAL CASE 08CR0547-JM MAGISTRATE CASE 08MJ0385-AJB DATE: March 20, 2008 TIME: 1:30 P.M. COURTROOM A DECLARATION OF ATTORNEY AL SMITHSON IN SUPPORT OF MOTION FOR ORDER SETTING VIDEO DEPOSITION OF MATERIAL WITNESSES APOLINAR SANTOS-DE ASIS PERFECTO TOTO-CRUZ VICENTE ALVARDO-VICTORIA FRANCISCO DIEGO-BENABE

I.

INTRODUCTION

I, AL SMITHSON, declare that I am an attorney, duly licensed to practice law in the State of California and in the United States District Court for the Southern District of California;

I am making this declaration on behalf of the material witnesses, APOLINAR SANTOS-DE ASIS, PERFECTO TOTO-CRUZ, VICENTE ALVARDO-VICTORIA and FRANCISCO DIEGO-BENABE, who were arrested on or about February 7, 2008, and have remained in custody since that date.

The material witnesses have no friends, neighbors, or acquaintances in the United States who can qualify as an acceptable surety to accommodate their release from custody.

Material Witness APOLINAR SANTOS-DE ASIS came to the United States to seek employment to help support his six-months old daughter Gisehet and his wife Elena Flores. In addition, he helps support his elderly father Cenon Santos and his elderly mother Adalida De Asis. Material Witness PERFECTO TOTO-CRUZ came to the United States to seek employment to help support his six-years old daughter Jacquiline and to help support his disabled father Adolfo Toto who suffers from serious burns on his hands and arms resulting from an accident where he was burned with scalding water. Material Witness VICENTE ALVARDO-VICTORIA came to the United States to seek employment to help support his wife Edith Valdez and their nine-years old son Fernando and four-years old daughter Jareli as well as help support his elderly father Jesus Alvardo and mother Maria Guadalupe Victoria. Material Witness FRANCISCO DIEGO-BENABE came to the United States to seek employment to help support his four children, Mateo, age 12; Cristoven, age 10; Antonio, age 8; and Rolaneta, age 6; as well as helping to support his 80 years old father, Francisco Domingo Benabe, and his 78 years old mother Maria Francisco de Diego.

The material witnesses will have been in custody for 43 days as of the hearing date of this motion. To continue to remain in custody imposes an extreme hardship on the material witnesses and on their families.

In view of these facts, material witnesses APOLINAR SANTOS-DE ASIS, PERFECTO TOTO-CRUZ, VICENTE ALVARDO-VICTORIA and FRANCISCO DIEGO-BENABE seek an Order for a video deposition from this Court. I have fully explained the procedures involved in this deposition process and received their promise of full cooperation in the video deposition process.

I am unaware of any reason why these witnesses should not be released from custody in this case after the video deposition pursuant to Rule 15 (a) of the Federal Rules of Criminal Procedure, and am further unaware of the existence of a statement of such reason by any other attorney on this case.

I believe it would be in the interests of justice to allow the testimony of these material witnesses in question to be secured by video deposition and to thereafter release the material witnesses to prevent them from suffering custody any longer than necessary in order to further justice in this case.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: March 4, 2008.

/s/ Al Smithson
AL SMITHSON, Attorney for Material Witnesses
APOLINAR SANTOS-DE ASIS
PERFECTO TOTO-CRUZ
VICENTE ALVARDO-VICTORIA
FRANCISCO DIEGO-BENABE